

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
ESTATE OF EVANGELOS KARAYANNIDES	:	DETERMINATION
	:	DTA NO. 812811
for Redetermination of a Deficiency or for	:	
Refund of New York State and New York City	:	
Personal Income Taxes under Article 22 of the	:	
Tax Law and Title 11 of the New York City	:	
Administrative Code for the Year 1981	:	

Petitioner, Estate of Evangelos Karayannides, 14-16 Aigintou Street, Athens, Greece, filed a petition for redetermination of a deficiency or for refund of New York State and New York City personal income taxes under Article 22 of the Tax Law and Title 11 of the New York City Administrative Code for the year 1981.

A hearing was held before Jean Corigliano, Administrative Law Judge, at the offices of the Division of Tax Appeals, 500 Federal Street, Troy, New York, on July 11, 1995 at 9:15 A.M. Briefs were submitted by both parties. Petitioner's reply brief was submitted on November 16, 1995, which began the six-month statutory period for the issuance of a determination. Petitioner appeared by Isidore R. Tucker, Esq., and Lenore W. Tucker, Esq. The Division of Taxation appeared by Steven U. Teitelbaum, Esq. (Donna M. Gardiner, Esq., of counsel).

ISSUE

Whether petitioner has established that an increase in Evangelos Karayannides's Federal adjusted gross income in 1981, as determined by the Internal Revenue Service, did not result in a corresponding increase in his New York State adjusted gross income.

FINDINGS OF FACT

1. The Division of Taxation ("Division") issued to petitioner, Estate of Evangelos Karayannides, a Notice of Deficiency, dated May 4, 1992, asserting a tax deficiency of \$31,836.41 plus interest for the year 1981.

2. The Division was unable to produce a copy of any tax return filed by Evangelos Karayannides for 1981. It did produce a copy of a microfilm record of Mr. Karayannides's New York tax filing for 1981. In an affidavit, James Miller, Assistant Director in the Division's Personal Income Tax Returns Processing Bureau, explained the Division's recordkeeping system as it pertains to the microfilm records of tax returns. Information taken from a taxpayer's return is entered into a database known as the Personal Income Tax Return Processing Database. A comparison is made of header information (name, address, social security number, etc.) from the most recently filed return and prior year information stored in the system. If there is a discrepancy between the two, the header data is passed to the Taxpayer Indicative Data System ("TID"). The TID database search is based on an exact match of the taxpayer's social security number. A further check is performed comparing the last name and the first three characters of the first name. If there is an exact match at this level, the system then performs a character by character match. The system compares the date that the taxpayer's header information was reported to the Division against the notification date associated with the taxpayer's existing TID information. The most current data is maintained in the TID system. TID receives update files from two sources: (1) the return data capture records and (2) the master file header change program. Updates are performed daily and weekly. Notices are issued to the most current TID address at the time of issuance.

3. The information stored in the Personal Income Tax Return Processing Database is extracted and stored on magnetic tape periodically. At some point in time, information in the Returns Processing Database is expunged from the computer recordkeeping system. The information stored on magnetic tape is then transferred to microfilm. In sum, the information appearing on the microfilm record is taken from the taxpayer's personal income tax return.

4. The microfilm record of Mr. Karayannides's personal income tax return shows that he reported Federal gross income for 1981 of \$116,112.00, New York gross income for 1981 of \$114,494.00 and itemized deductions of \$28,986.00. He paid New York State and New York City personal income taxes of \$10,865.00. Mr. Karayannides's address as shown on the microfilm record is 25 Sutton Place, New York, New York.

5. The Division determined the 1981 tax deficiency based upon information it received from the Internal Revenue Service ("IRS"). The IRS provided the Division with a copy of Mr. Karayannides's 1981 Federal income tax return. On that return, Mr. Karayannides reported salary income of \$128,167.00 and income from other sources, including rents, royalties, and partnership income of \$4,954.00 (line 17) and "other income" of \$20,000.00 (line 20) for a total income of \$155,112.00. Alimony payments of \$39,000.00 were subtracted from the total to calculate Federal gross income of \$116,112.00, an amount consistent with the information on the microfilm copy of Mr. Karayannides's New York return.

6. The IRS determined that in 1981 Evangelos Karayannides received distributions from E. A. Karay Company, Inc. in the amount of \$367,730.00. Of that total, \$116,062.00 was characterized as salary; \$62,457.00 was characterized as dividends; \$6,343.00 was characterized as return of capital; and \$182,868.00 was characterized as long-term capital gain. The IRS adjusted Mr. Karayannides's taxable income by including in its calculation of adjusted gross income \$62,457.00 from dividends and \$73,147.00 from long-term capital gain, both from E. A. Karay. Mr. Karayannides's accountant, Daniel Taub, executed a consent agreeing to the deficiency in Federal income tax as determined by the IRS. The date of his signature is October 9, 1985. The IRS document explaining the changes to Mr. Karayannides's Federal income states that he controlled E. A. Karay in 1981.

7. Petitioner does not dispute that there was a final Federal determination of tax due. There is no evidence that Mr. Karayannides notified the Division of the change in his Federal income.

8. The Division issued to petitioner a Statement of Personal Income Tax Audit Changes, dated July 10, 1991. It asserts that Mr. Karayannides's filing status was that of a New York State resident. A schedule of audit adjustments attached to that statement shows the Division's calculation of Mr. Karayannides's New York State adjusted gross income as follows:

"State Adjusted Gross Income Per Return	114,494.00
Audit Increases to N.Y. State Income	
Dividend (E.A. Karay Co., Inc.)	62,457.00
Long Term Cap. Gain Dist. (E.A. Karey Co.)	73,147.00
N. Y. Capital Gain Modification	18,287.00
Audit decreases to N. Y. State Income	_____
Adjustments To N. Y. State Income	<u>153,891.00</u>
Corrected adjusted gross income	268,385.00"

9. Petitioner's challenge to the assessment is premised on two contentions. First, petitioner claims that Mr. Karayannides was not a resident of New York in 1981 and was not subject to the tax imposed on New York State residents. Second, petitioner contends that the distributions from E.A. Karay Company were not New York source income. Based on these contentions, petitioner argues that the distributions were not subject to New York State tax.

10. Evangelos Karayannides was born in Greece in 1909 and emigrated to the United States in about 1940. He married his first wife, Catherine, on April 12, 1943. They had two children, James and Sophia. From the time of his emigration to the United States until approximately June 1978, Evangelos resided with Catherine in New York City. Evangelos retained his status as a Greek citizen after his naturalization as a citizen of the United States of America.

11. From before 1974, Evangelos Karayannides was the principal shareholder, president and chief executive officer of E. A. Karay Company, a metals trading corporation with its principal office at 10 Columbus Circle in New York City. On August 11, 1982, Evangelos transferred his stockholdings to his son, James, and resigned all positions with the corporation. The transfer of ownership followed a period of marital and familial discord.

12. Evangelos took frequent business trips to Greece where he met with business associates and trading partners. In 1974, he met the woman who later became his second wife, Helen (also known as Eleni), who then worked for the government of Greece. It was Evangelos's custom to visit with Helen on his trips to Greece. By 1978, Evangelos had decided to maintain a full-time residence in Greece and purchased an apartment in the city of Kavouri which is about 20 miles from Athens. He told Helen that he was estranged from his wife, Catherine, and wanted to make a permanent move to Greece.

13. On September 20, 1979, Mr. Karayannides instituted divorce proceedings against his first wife in a civil court in Athens, Greece. In addition, he took up residence with Helen in the Kavouri apartment. By this time, Evangelos was partially blind and could not see to read. He had several accidents as a result of his limited vision. Helen decided that it would be necessary for her to be at Evangelos's side as much as possible to help him navigate in unfamiliar surroundings. Because his mobility was limited by his eyesight and most of his business was conducted in Athens, Evangelos purchased an apartment in Athens which he used as his primary residence from 1979 until his death in 1991. Various items were shipped to Greece from New York to furnish the Kavouri and Athens apartments.

14. In November 1979, Evangelos purchased an apartment at 25 Sutton Place in New York City. At the time of its purchase, the apartment was intended to be for the use of Evangelos's daughter; however, Evangelos maintained ownership of the apartment. The divorce proceedings involving Catherine and Evangelos put a strain on the relationship between father and daughter and, in the end, Evangelos's daughter made no use of the New York apartment. Evangelos and Helen resided in the apartment on their visits to New York.

15. Evangelos's trips to New York were necessitated by three circumstances. First of all, Catherine and Evangelos were engaged in a divorce action in New York, and he was required to attend various legal proceedings in connection with the divorce. Second, Evangelos's eyesight continued to deteriorate, and he sought treatment in New York. His opthamologist, Dr. Coles, treated Evangelos from 1969 until some time in 1984. Finally,

Evangelos remained active in E.A. Karay Company. He attended business meetings of that corporation in New York City in 1980. Whether he attended such meetings in 1981 is a fact in dispute which is discussed in detail in Finding of Fact "25".

16. In a verified petition signed by Eleni Karayannides, petitioner alleges as follows:

"13. Until the taxpayer sold his interest and transferred ownership of his corporate business to his son in 1982, he was an international broker and sales person in metal products. He had one of his big suppliers, Bioxalco of Athens, a manufacturer of metal products and sold those products primarily in Canada although he had customers in Boston. Another one of his suppliers was Metal Chenex of Paris. The taxpayer performed all of his services during the period 1979 through 1982 for these companies in Athens, with trips to Paris, Canada, Chicago and Boston. Once a year he would attend the annual Chicago Exhibit where he would attract international customers, primarily from Paris and Canada. He would travel to Paris as well as to Canada to meet customers, stopping off on occasion in New York."

17. Evangelos's passport shows that he travelled to the United States on December 26, 1980 and remained until February 17, 1981. He reentered the States on February 25, 1981 and left again on March 13, 1981. He returned on May 17, 1981 and left the States on June 14, 1981. On September 5, 1981, he returned to the States and left again on September 25, 1981. He was out of this country until December 26, 1981 when he returned. Based on the passport, it can be determined that Evangelos was in the United States on 117 days in 1981. At hearing, the Division stipulated that Evangelos spent fewer than 183 days in New York City in 1981.

18. Because of Evangelos's poor eyesight, Helen tried to be with him as much as possible. She stated that she accompanied him to the corporate headquarters of E. A. Karay when he attended business meetings there; however, she was not allowed to follow him into the inner offices where he met with his son, James, and Mr. Taub.

19. A Greek court granted Evangelos a judgement of divorce on February 20, 1983. Catherine died before that decree became final and before the New York State divorce proceedings were complete. On September 9, 1984, Evangelos married Helen in Greece where they lived until Evangelos's death in 1991.

20. Evangelos belonged to three social clubs in Greece, a golf club, a men's social club and a yacht club. In addition, he regularly met with former business associates at the Athens

Hilton. He and Helen attended church services in Greece. Evangelos was treated by two doctors in Athens.

21. Evangelos began receiving medical treatment for heart problems in about 1981. In February 1985, he suffered a stroke while visiting Palm Beach, Florida (he and Helen maintained a residence in Florida at this time). He was hospitalized in Palm Beach and in New York City in 1985.

22. Evangelos and Helen filed a joint New York State Resident Income Tax Return for 1985 where they reported zero income and no tax due. The return appears to have been signed by Evangelos Karayannides.

23. By 1982, Evangelos's eyesight was so bad that all documents had to be read to him. His personal tax returns and the returns of E. A. Karay were prepared by Daniel Taub, an accountant who continued to represent the corporate entity after Evangelos's resignation. Mr. Taub provided accounting services to James and Catherine Karayannides as well. Mr. Taub's son is an attorney who represented Catherine in the divorce proceedings against Evangelos.

24. Evangelos died and was buried in Greece in 1991.

25. Based primarily on the testimony of Helen Evangelos, petitioner asks for a Finding of Fact that Evangelos "was out of the business during the year 1980 and in 1981 and didn't have anything to do with the business operations" (Petitioner's brief, p. 15). Petitioner also asks that the following be adopted as a Finding of Fact:

"During 1981 Decedent was not active in business, either for himself or the corporate entity, E. A. Karay Company, Inc. He did not perform services for the corporate business entity except to meet in Athens with his long time Greek business acquaintances, apparently to maintain the corporation's goodwill" (Petitioner's brief, p. 17).

These proposed findings of fact were not adopted for several reasons which I will explain here in some detail.

(a) Helen Karayannides's testimony was sometimes inconsistent or imprecise, especially with regard to the dates on which certain events occurred. For instance, she testified that Evangelos "began to be out of the business" in 1980 and had nothing to do with the business in

1981 (tr., p. 40). She also testified that James ran the business in 1981 (tr., p. 41). Later, she testified that Evangelos "went out of the company for June, July 1980" because his son told him "give me everything, give me the responsibilities to run the company" (tr., p. 77). However, when she was asked what occasioned Evangelos's and her trips to New York in 1981, she stated: "Maybe the first reason was about the business, because in this time his son told [him]: 'Give me the company, give me this, give me this, I want everything'" (tr., p. 63).

(b) Helen's testimony is in conflict with statements made in the petition that she signed. The petition alleges that Evangelos continued to represent E. A. Karay at business meetings in Chicago, Boston, Paris, Athens and Canada throughout 1981. Petitioner did not explain the inconsistency between the petition and Helen's testimony. In addition, Helen's testimony establishes that Evangelos continued to meet with business associates in Athens throughout 1981. Petitioner attempts to downplay the importance of these meetings, but no one with personal knowledge of the corporation's affairs was available to testify regarding the nature or extent of the meetings. The exact duties and services performed by Evangelos for E. A. Karay in 1981 remain unknown.

(c) Evangelos's 1981 Federal income tax return is in conflict with Helen Karayannides's testimony. It shows that in 1981 Evangelos was compensated as an employee of E. A. Karay and received wages in the amount of \$128,167.00, again indicating that he continued to play some role in the corporation throughout 1981. Petitioner implied that Evangelos was somehow misled by his accountant, Mr. Taub, who was responsible for preparing the 1981 return. There was even an implication that the return was filed without Evangelos's actual knowledge or consent. There was no evidence offered that would support these allegations.

(d) Helen Evangelos's testimony established that she had no personal knowledge of the business arrangements which existed regarding Evangelos's relationship to E. A. Karay. She testified that she was excluded from business meetings that took place in New York City in 1980 and did not know the exact content of those meetings (tr., p. 38).

(e) Evangelos did not resign from E. A. Karay until August 1982. At that time he gifted his stock holdings to his son and resigned "as a director, officer and employee of the Company" (Agreement between Evangelos Karayannides and James Karayannides, August 11, 1982). Moreover, the finding of the IRS was that Evangelos controlled E. A. Karay in 1981.

26. Pages 11 through 19 of petitioner's brief contain proposed findings of fact, all of which are unnumbered. Since the proposed findings of fact were not numbered, it would be prohibitively cumbersome to identify and rule separately on each one. Many of the proposed findings of fact were not adopted because they relate to the issue of Evangelos's domicile which is not contested by the Division. Those proposed findings of fact which were rejected as unsupported by the evidence are discussed in detail above. Some proposed findings of fact relating to Mr. Taub were omitted because they tended to imply a motivation on his part that was not supported by the evidence.

27. The Division submitted nine proposed findings of fact. Proposed findings of fact "5" and "8" were rejected as statements of law or legal issues rather than of fact. The remainder were incorporated into this determination.

CONCLUSIONS OF LAW

A. Many of petitioner's arguments are based on the premise that Evangelos Karayannides was not domiciled in New York in 1981. For instance, petitioner states that the Division has the burden of proof to show Mr. Karayannides filed a resident return in 1981. These arguments regarding domicile have been rendered moot by the Division's stipulation that Evangelos Karayannides spent fewer than 183 days in New York in 1981 and its assertion that domicile is not an issue in this case (Division's Proposed Finding of Fact "8"). In essence, the Division concedes that Evangelos Karayannides was not subject to New York State tax in 1981 as a resident individual (see, Tax Law § 605[b][1]).¹

¹Title T and Title U of the New York City Administrative Code which impose a personal income tax on New York City residents and nonresidents, respectively, contain provisions which are almost identical to corresponding provisions of Article 22 of the Tax Law. Unless otherwise specified, all references to particular sections of Article 22 shall be deemed references, though uncited, to the corresponding sections of Title T or Title U of the Administrative Code.

Petitioner has raised two other issues. The first issue is whether the Division has carried its burden of going forward to show a rational basis for its issuance of the assessment. The second issue is whether there is sufficient evidence in the record to support the Division's determination that the distributions from E. A. Karay to Mr. Karayannides were New York source income.

B. The Division states that the basis for its deficiency notice is Mr. Karayannides's failure to advise the Division of a Federal change to his 1981 income. Tax Law § 659 provides, as pertinent here, that where a taxpayer's Federal taxable income is changed or corrected by the IRS the taxpayer must report such change or correction to the Commissioner of Taxation and Finance within 90 days after the final determination of such change or correction and either concede the accuracy of the Federal change or state the taxpayer's basis for asserting that the change or correction is erroneous. If the Federal change or correction is not reported within the 90-day period, the Division is authorized by Tax Law § 681(e) to issue a notice of tax due. The issuance of such a notice gives rise to a right to a hearing where the correctness of the notice may be challenged (Matter of Jaffe, Tax Appeals Tribunal, September 21, 1995).²

The Division placed in evidence a microfilm record which establishes that a 1981 New York State personal income tax return was filed by Mr. Karayannides where he reported New York gross income of \$114,494.00 and paid

personal income tax of \$10,865.00. It also placed in evidence a copy of Mr. Karayannides's 1981 Federal income tax return and documents from the IRS showing changes made to the Federal return which resulted in an increase in Federal gross income. These documents are sufficient to establish that the Division had a rational basis for its assessment. Mr. Karayannides was a New York taxpayer in 1981, and he did not notify the Division of agreed

²In Matter of Jaffe (*supra*), the Division argued that there is no right to a hearing to protest a notice issued under Tax Law § 681(e). The Tax Appeals Tribunal held otherwise, but it did not address the time period for filing such a petition which would appear to be "within thirty days after the mailing of such notice . . ." (Tax Law § 681[e]). The Division did not challenge the timeliness of the petition. Inasmuch as timeliness is a factual as well as a legal issue not addressed at hearing, I have not raised subject matter jurisdiction as an issue here.

upon changes to his Federal income. There is no dispute as to the nature of the Federal changes or the fact that they occurred. It was not irrational for the Division to rely upon the Federal audit changes as a basis for issuing an assessment. Therefore, the burden of proof is upon petitioner to show that the notice of deficiency is incorrect (Tax Law § 689[e]; see, e.g., Matter of Delia v. Chu, 106 AD2d 815, 484 NYS2d 204; Matter of Golden v. State Tax Commn., 90 AD2d 941, 457 NYS2d 905).

C. The remaining issue is whether income received by Mr. Karayannides in 1981 is subject to the personal income tax. Tax Law § 631 (former [a]), in effect in 1981, states that the "New York source income of a nonresident individual shall be the sum of the net amount of items of income, gain, loss and deduction entering into his federal adjusted gross income" As relevant here, New York source income includes items attributable to "the ownership of any interest in real or tangible personal property in this state" (Tax Law § 631[b][1][A]) and items attributable to "a business, trade, profession or occupation carried on in [New York]" (Tax Law § 631[b][1][B]).

Regarding income from intangible property, the Commissioner's Regulations state:

"Items of income, gain, loss and deduction attributable to intangible personal property of a nonresident individual, including annuities, dividends, interest, and gains and losses from the disposition of intangible personal property, do not constitute items of income, gain, loss and deduction derived from or connected with New York State sources, except to the extent attributable to property employed in a business, trade, profession or occupation carried on in New York State. . . .

"Example: A, a resident of New Jersey, owns 100 percent of the stock of X Corporation, which operates a store in New York State. In 1980, the corporation pays A a salary of \$20,000, all of which was earned in New York State, and a dividend of \$2,000. A's income from New York State sources is his salary of \$20,000, since the dividend is not income derived from New York State sources and thus not taxable for New York State personal income tax purposes." (20 NYCRR former 131.5[a].)

There are three items of income in dispute: salary income of \$116,062.00, a dividend of \$62,457.00, a long-term capital gain distribution of \$173,147.00 and a New York capital gain modification of \$18,287.00. I will treat the salary income separately from the other items.

Petitioner states that in 1981 Mr. Karayannides performed no services for E. A. Karay in New York and thus had no salary income subject to New York State tax. This position is

premised on the testimony of Helen Karayannides who testified that Mr. Karayannides was out of the business in 1980. For the reasons stated in Finding of Fact "25", I find this testimony insufficient to establish the fact that Mr. Karayannides performed no services for E. A. Karay in 1981. I will reiterate briefly. Petitioner did not establish that Helen Karayannides was in a position to know of the legal, financial or business arrangements that existed between Mr. Karayannides and E. A. Karay. She testified that she was excluded from the business meetings of E. A. Karay. In addition, since Helen Karayannides did not claim to have discussed Mr. Karayannides's business dealings with him, there are not facts from which it can be concluded that she gained knowledge of his business affairs from him.

Mrs. Karayannides's testimony is in conflict with other evidence in the record. In a verified petition signed by Mrs. Karayannides, petitioner alleges that Mr. Karayannides performed services for E. A. Karay in 1981, albeit in locations other than New York State. This is inconsistent with her testimony that he was out of the business after 1980. Mr. Karayannides reported the receipt of salary income from E. A. Karay in 1981 on both his Federal and State returns. He did not source that income in and out of New York or claim that he performed no services for E. A. Karay in New York; rather, he reported that income as New York State income. The only evidence that he performed no services in New York is Mrs. Karayannides's testimony which I have found not to constitute probative and reliable evidence of the nature and extent of Mr. Karayannides's business activities in 1981. Petitioner claims that the 1981 returns were incorrect, and much was made of the fact that Mr. Karayannides was blind in 1981. That does not prove that he was incapable of providing services to E. A. Karay or of overseeing the business of E. A. Karay. Petitioner also suggests that Mr. Karayannides was victimized by his son and accountant. Apparently, the claim is that Mr. Taub filed incorrect returns on behalf of Mr. Karayannides and that Mr. Karayannides was unable to properly oversee those tax filings because of his failing health and sightlessness. There is no evidence in the record to support this scenario. In sum, I find that petitioner has not carried its burden of proof to show that Mr.

Karayannides's 1981 income from salary and wages in the amount of \$116,062.00 was not New York source income.

Petitioner argues that the burden is on the Division to show the nature and source of the income reported on lines 17 and 20 of Mr. Karayannides's 1981 Federal income tax return.³

Petitioner states:

"The source and nature of the income on line items 17 and 20 of taxpayer's 1981 Federal Return Form 1040 are not known and were not proven. Proof of the source of each such items of income to this taxpayer (not the corporate employer) and its nature are essential to a determination as to whether they are New York State 'sourced' under the statutory scheme for taxing non-Residents for New York State tax purposes. The State need not accept the federal determination and may conduct its own audit. Tax Law Sec. 659, Reg Sec. 159.4. Here the State has not done so. It merely accepted the federal return and adjustments. The State is limited by statute as to what items of income are taxable to non-Residents. The Regulations in effect during the year 1981 (20 N.Y.C.R.R. 131.2 to 131.5 . . .) specifies the types and source of income of a non-Resident the State may and may not tax. Thus, following petitioner's presentation of her case, the burden of going forward with proof as to the nature and source of these two line items 17 and 20 income is upon the State. The State failed to go forward with its burden of proof." (Petitioner's brief, p.21.)

The Division does not bear the burden of proving the nature and source of the distributions of income received by Mr. Karayannides. That burden is on petitioner (Matter of Delia v. Chu, supra; Matter of Golden v. State Tax Commn., supra). The only information in the record regarding the nature and source of the dividend and long-term capital gain income derives from the IRS documents evidencing the Federal adjustments to income. Petitioner did not provide independent evidence of the nature and source of the income. Unfortunately, the information in the Federal documents does not conclusively show that the dividend and long-term capital gain income was attributable to intangible property. For instance, if a wholly-owned

New York corporation doing business in New York sold real property in New York State and distributed the long-term capital gain to its nonresident shareholder, that gain would most likely constitute income derived from or connected with New York State sources. I do not mean to suggest that the long-term capital gain received by Mr. Karayannides was from the sale of real

³Line 17 of the 1981 Federal return is designated for reporting of income from "[r]ents, royalties, partnerships, estates, trusts, etc." Line 20 is for the reporting of other income.

property. I merely use this scenario to demonstrate that denominating certain income as long-term capital gain, or dividend, does not establish that such income is not New York source income.

There is not sufficient evidence in the record to establish that the dividend and long-term capital gain distributions received by Mr. Karayannides were not New York source income. Accordingly, petitioner has not carried its burden of proof to overcome the assessment of tax.

D. The petition of the Estate of Evangelos Karayannides is denied, and the Notice of Deficiency issued on May 4, 1992 is sustained.

DATED: Troy, New York
April 4, 1996

/s/ Jean Corigliano
ADMINISTRATIVE LAW JUDGE